

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

OSCAR MILLER,

Plaintiff,

v.

9:17-CV-0369
(GTS/DJS)

ANTHONY ANNUCCI,

Defendant.

APPEARANCES:

OF COUNSEL:

OSCAR MILLER, 10-A-3376
Plaintiff, *Pro Se*
Washington Correctional Facility
Box 180
72 Lock 11 Lane
Comstock, New York 12821

HON. LETITIA A. JAMES
Attorney General for the State of New York
Counsel for Defendant
The Capitol
Albany, New York 12224

KEITH J. STARLIN, ESQ.
Assistant Attorney General

GLENN T. SUDDABY, Chief United States District Judge

DECISION and ORDER

Currently before the Court, in this *pro se* prisoner civil rights action filed by Oscar Miller (“Plaintiff”) against Anthony Annucci, Acting Commissioner of the New York State Department of Corrections and Community Supervision (“Defendant”) seeking a Court order directing Defendant to produce documentary evidence in order to determine whether Plaintiff may be able to challenge his sentence, is United States Magistrate Judge Daniel J. Stewart’s Report-Recommendation recommending that Defendant’s motion for summary judgment be granted

based on the fact that Defendant has provided Plaintiff with the requested documents and therefore Plaintiff's Amended Complaint is now moot. (Dkt. No. 52.) The parties have not filed objections to the Report-Recommendation, and the deadline by which to do so has expired. (*See generally* Docket Sheet.) After carefully reviewing the relevant papers herein, including Magistrate Judge Stewart's thorough Report-Recommendation, the Court can find no clear error in the Report-Recommendation.¹ Magistrate Judge Stewart employed the proper standards, accurately recited the facts, and reasonably applied the law to those facts. (Dkt. No. 52.) As a result, the Report-Recommendation is accepted and adopted in its entirety for the reasons set forth therein, Defendant's motion is granted, and Plaintiff's Amended Complaint is dismissed.

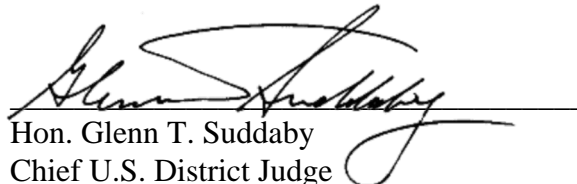
ACCORDINGLY, it is

ORDERED that Magistrate Judge Stewart's Report-Recommendation (Dkt. No. 52) is **ACCEPTED** and **ADOPTED** in its entirety; and it is further

ORDERED that Defendant's motion for summary judgment (Dkt. No. 42) is **GRANTED**; and it is further

ORDERED that Plaintiff's Amended Complaint (Dkt. No. 6) is **DISMISSED**.

Dated: May 8, 2019
Syracuse, New York


Hon. Glenn T. Suddaby
Chief U.S. District Judge

¹ When no objection is made to a report-recommendation, the Court subjects that report-recommendation to only a clear error review. Fed. R. Civ. P. 72(b), Advisory Committee Notes: 1983 Addition. When performing such a "clear error" review, "the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Id.*; *see also Batista v. Walker*, 94-CV-2826, 1995 WL 453299, at *1 (S.D.N.Y. July 31, 1995) (Sotomayor, J.) ("I am permitted to adopt those sections of [a magistrate judge's] report to which no specific objection is made, so long as those sections are not facially erroneous.") (internal quotation marks omitted).